

0015

From: Dana Dean
To: efinley@efinley.com; mark.reynolds@hiawathacoal.com
CC: Angela Nance; Daron Haddock; Garth Nielsen; Jim Smith; Jim Springer;...
Date: 2/5/2009 4:10 PM
Subject: Cessation Order for the Bear Canyon Mine
Attachments: Bear Canyon CO.pdf

Outgoing
C/015/0025
K

Please let me know if you have questions concerning this Cessation Order. It requires you to cease all operations, except the current longwall panel, immediately. Refer to Director Baza's letter for all details.

Thank you,

Dana Dean, P.E.
Associate Director - Mining
Utah Division of Oil, Gas, and Mining
(801) 538-5320
danadean@utah.gov



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

February 5, 2009

CERTIFIED RETURN RECEIPT REQUESTED
7005 2570 0000 4801 7710

Elliot Finley, Resident Agent
Hiawatha Coal Company
P.O. Box 1240
Huntington, Utah 84528

Subject: Cessation Order for the Bear Canyon Mine

Dear Mr. Finley:

Based on inspections and communications, the Division has determined that since November 20, 2008, or earlier you have been in violation of: R645-301-812.700, adequate bond coverage required at all times; R645-303-323 prior to approval of a transfer of a permit the operator shall obtain an adequate surety; and R645-303-310, no assignment or transfer of a permit will be made without the prior approval of the Division. The consequence of these violations is that Hiawatha has been conducting mining operations without a permit and pursuant to R645-400-310 and 312 a cessation order is mandatory and penalties are to be assessed under R645-401-400 for each day of the violation.

Accordingly, Hiawatha Coal Company, Inc. is hereby ordered to cease mining activities as follows:

1. Hiawatha is to immediately and hereafter cease any and all mining operations that will result in an increase in the amount of current surface disturbance area in any manner or degree.
2. No mining operations shall proceed or continue that are intended to or are or part of the work required to develop any additional long-wall panel beyond the long-wall panel currently in production.
3. Hiawatha will contact the BLM to request any necessary modifications to the BLM approved mine plan (requirements and approval of that plan will be separately handled by BLM). Hiawatha will contact MSHA and the Utah Office of Mine Safety regarding cessation of mining.



Hiawatha will accommodate inspection(s) as arranged by BLM and DOGM to review current mining operations and plans. Hiawatha will present to DOGM and BLM an operational plan with anticipated dates for pulling the long-wall from the current long-wall face (whether at the end of the panel or to reposition due to sandstone channels).

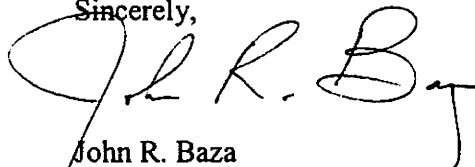
4. At the conclusion of mining in the current long-wall panel as set forth in item 3, no further coal mining will be permitted until the violations resulting in the Cessation Order have been fully resolved.

To abate and lift this Cessation Order Hiawatha Coal Company, Inc. must :

1. Post a bond of \$1,731,000 in a form acceptable to the Division.
2. Provide a complete and accurate response to the deficiencies identified in a letter to Elliot Finley from the Division, dated January 28, 2009 (attached).
3. Obtain the Division's conditional approval of the transfer of the permit; i.e., subject to any further orders by the bankruptcy court granting approval of transfer of the permit from C.W. Mining Co. to Hiawatha Coal Company on an interim or permanent basis (recognizing it may take some time). This conditional approval of the transfer of the permit will terminate in the event the court eventually determines that C.W. Mining was/is not allowed to transfer the permit, and in such event Hiawatha will be required to immediately advise the Division and commence actions to transfer the permit to an approved operator or close the mine.

If you have any questions regarding this Cessation Order, please contact myself (801) 538-5334, or Dana Dean (801) 538-5320.

Sincerely,



John R. Baza
Director



Citation for Non-Compliance Utah Coal Regulatory Program

1594 West North Temple, Salt Lake City, UT 84114

Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: 10034

Permit Number: C0150025

Date Issued:

☐ NOTICE OF VIOLATION

☒ CESSATION ORDER (CO)

☐ FAILURE TO ABATE CO

Permittee Name: Hiawatha Coal Company, Inc.

Inspector Number and ID: 50 DDEAN

Mine Name: Bear Canyon Mine

Date and Time of Inspection: 01/26/2009 10:30 am

Certified Return Receipt Number:

Date and Time of Service: 02/05/2009 4:00 pm

Nature of condition, practice, or violation:

Since November 20, 2008, or earlier you have been in violation of: R645-301-812.700, adequate bond coverage required at all times; R645-303-323 prior to approval of a transfer of a permit the operator shall obtain an adequate surety; and R645-303-310, no assignment or transfer of a permit will be made without the prior approval of the Division. The consequence of these violations is that Hiawatha has been conducting mining operations without a permit.

Provisions of Act, regulations, or permit violated:

R645-301-812.700

R645-303-323

R645-303-310

☒ This order requires Cessation of ALL mining activities. (Check box if appropriate.)

☐ Condition, practice, or violation is creating an imminent danger to health or safety of the public.

☒ Permittee is/has been conducting mining activities without a Permit.

☐ Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

☐ Permittee has failed to abate Violation(s) included in
☐ Notice of Violation or ☐ Cessation Order within time for abatement originally fixed or subsequently extended.

☐ This order requires Cessation of PORTION(S) of mining activities.

Mining activities to be ceased immediately: ☒ Yes ☐ No

Abatement Times (if applicable).

See attached letter for cessation requirements.

Action(s) required: ☒ Yes ☐ No

See attached letter for abatement requirements.

Elliott Finley
(Print) Permittee Representative

DANA DEAN

(Print) DOGM Representative

Permittee Representative's Signature - Date

2/5/09
DOGM Representative's Signature - Date

SEE REVERSE SIDE OF This Form For Instructions And Additional Information

IMPORTANT – READ CAREFULLY

Pursuant to the Utah Coal Mined Land Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOGM) has conducted an inspection and found that a Notice of Violation or Cessation Order must be issued.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

1. PENALTIES.

Proposed assessment. DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the cessation order and proposed fine, please submit that to DOGM within *15 days of the date this notice or order is served on you or your agent*. Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, no later than 30 days of the issuance of this notice or order. See Utah Admin. Code R645-401-600 et. seq.

The penalty will be final unless you or your agent file, within 15 days of receipt of the proposed assessment, a written request for an informal hearing before the assessment officer.

Assessment. For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring cessation of surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

On the reverse side of this page, an authorized representative has made a finding as to whether or not this notice requires cessation of mining. If this order or notice requires cessation of mining, expressly or in practical effect, you may request that an informal public hearing be held at or near the mine site. If you wish an informal public hearing be held, please contact an authorized representative from DOGM. See Utah Admin. Code R645-400-350 et seq. Once an informal public hearing is scheduled, you will be notified of the date, time, and location of the hearing.

If this notice requires cessation of mining, it will expire within 30 days from the date you are notified unless an informal public hearing is held or waived, or the condition, practice, or violation is abated within the 30-day period.

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may appeal this notice or order to the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of this notice or order. See Utah Admin. Code R645-300-164.300. Please submit the application for hearing to:

Secretary
Board of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for "*temporary relief*" from this notice. Procedures for obtaining a formal board hearing are contained in the Board's Rules of Practice and Procedure and in Utah Admin. Code R645-401-800 et. seq.

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the Act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

For further information, consult Utah Code Ann. § 40-10-20 through 40-10-23 and Utah Admin. Code R645-400-300 et. seq. and R645-401 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.